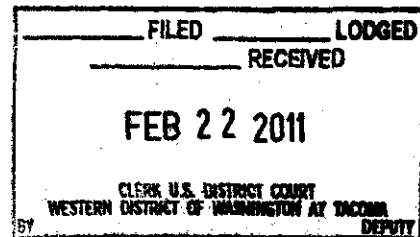




11-CV-05142-ORD



IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TWINSTAR CREDIT UNION, a
Washington corporation,

Plaintiff,

IN ADMIRALTY

NO. C11-5142 BHS

v.

MISS NICKLE, Official Number 526859,
her engines, tackle, apparel, furniture and
appurtenances, In Rem; and MICHAEL
SANDERSON, In Personam

Defendants.

ORDER APPOINTING MARINE
LENDERS SERVICES, LLC
SUBSTITUTE CUSTODIAN AND
ORDER AUTHORIZING MOVEMENT
OF VESSEL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON:

Plaintiff, TwinStar Credit Union, by and through its attorney of record, Brian C. Read,
having made appearance and made the following recitals:

1. On February 17, 2011, the Complaint herein was filed praying that the vessel
Miss Nickle, Official Number 526859, her engines, machinery, and appurtenances, etc.,
be condemned and sold to pay plaintiff's claims and for other proper relief.

2. The Clerk of the Court has been authorized to issue a Warrant for Arrest of
Vessel commanding the United States Marshal for this District to arrest and take the
defendant vessel into custody and to detain it in custody until further Order of this Court.

3. It is contemplated that the United States Marshal will seize the defendant
vessel forthwith. Custody by the U.S. Marshal requires the services of one or more
keepers at a charge of \$300.00 or more per day for the keepers alone and not including

ORDER APPOINTING MARINE LENDERS SERVICES, LLC
SUBSTITUTE CUSTODIAN AND ORDER AUTHORIZING
MOVEMENT OF VESSEL - 1

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1 charges for moorage and the other services usually associated with safekeeping vessels
2 similar to the defendant vessel.

3 4. The defendant vessel is currently moored in Westport, Washington at
4 Westport Marina, 326 Lamb Street, Westport, Washington. In the discretion of the
5 substitute custodian, immediately after arrest it may be moved to the facility of Marine
6 Lenders Services, LLC at 5350 - 30th Avenue NW, Seattle, Washington.

7 5. Plaintiff is agreeable to allow Marine Lenders Services, LLC to assume the
8 responsibility of safekeeping said vessel and Marine Lenders Services, LLC has consented
9 to act as her custodian until further Order of this Court. Fees and expenses to be charged
10 by Marine Lenders Services, LLC will be substantially less than the cost of leaving the
11 defendant vessel in the custody of the U.S. Marshal.

12 6. Buck Fowler, Jr. by declarations appended hereto and made a part hereof,
13 avers that Marine Lenders Services, LLC has no interest in the outcome of this lawsuit, can
14 arrange for adequate facilities and supervision for the proper safekeeping of the vessel,
15 and has obtained liability insurance with policy limits of not less than \$1,000,000.00 which
16 is expected to be adequate to respond in damages for loss or injury to the defendant
17 vessel or for damages sustained by third parties due to any acts, faults, or negligence of
18 said substitute custodian. Further, in his declaration, Buck Fowler, Jr., on behalf of Marine
19 Lenders Services, LLC agrees to accept custody of the defendant vessel and its equipment
20 which is the subject of the action herein, in accordance with the terms of this Order.

21 7. In consideration of the U.S. Marshal's consent to the appointment of Marine
22 Lenders Services, LLC, plaintiff agrees to release the United States and the U.S. Marshal
23 from any and all liability and responsibility arising out of the care and custody of the
24 defendant vessel and its equipment, from the time the U.S. Marshal transfers custody of
25 the vessel over to the substitute custodian, and plaintiff further agrees to indemnify and
26 hold the United States and the U.S. Marshal harmless from any and all claims whatsoever
27 arising out of the substitute custodian's possession and safekeeping.
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ORDER APPOINTING MARINE LENDERS SERVICES, LLC
SUBSTITUTE CUSTODIAN AND ORDER AUTHORIZING
MOVEMENT OF VESSEL - 2

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1 THEREFORE, IT IS ORDERED that the U.S. Marshal for the Western District of
2 Washington be, and is authorized and directed, upon the seizure of said defendant vessel,
3 its engines, tackle, and all other necessities thereunder appertaining and belonging,
4 pursuant to the Warrant for Arrest, to surrender the custody thereof to Marine Lenders
5 Services, LLC as substitute custodian, and that upon such surrender the U.S. Marshal shall
6 be discharged from all duties and responsibilities for the safekeeping of said vessel and
7 held harmless from any and all claims arising out of said custodial services.

8 IT IS FURTHER ORDERED that Marine Lenders Services, LLC, as substitute
9 custodian, shall see to and be responsible for the safekeeping of the defendant vessel.
10 Duties of the substitute custodian shall include, but are not limited to, ensuring that there
11 is adequate, safe moorage for the defendant vessel. The substitute custodian is not
12 required to have a person live on board the defendant vessel, but an officer or authorized
13 agent of the substitute custodian shall go on board from time to time to carry out the duties
14 of substitute custodian. No other person shall be allowed to enter on the defendant vessel
15 except as provided for herein or as otherwise expressly authorized by Order of this Court.

16 IT IS FURTHER ORDERED that the defendant vessel may be moved by tug or
17 other safe means from its present moorage to adequate, safe moorage at the facilities of
18 the substitute custodian on the Lake Washington Ship Canal, Seattle, Washington. The
19 substitute custodian shall notify the Office of the U.S. Marshal that the vessel is to be
20 moved and shall again notify the Office of the U.S. Marshal when the vessel has been
21 moved. Once the vessel has been moved to the facilities of the substitute custodian, the
22 defendant vessel shall not be moved again without further Order of the Court.

23 IT IS FURTHER ORDERED that Marine Lenders Services, LLC, as substitute
24 custodian, may, but is not required to, retain a marine engineer familiar with the vessel and
25 to take him on board the vessel with authorized agents of Marine Lenders Services, LLC
26 to assist in the securing of the vessel.

27 IT IS FURTHER ORDERED that Marine Lenders Services, LLC, as substitute
28 custodian, may, but is not required to, remove those pieces of electronic equipment on

1 board the vessel, if any, which may be easily removed without damage to the vessel, and
2 that such removed electronic equipment shall be stored in a safe, secure storage pending
3 further Order of this Court.

4 IT IS FURTHER ORDERED that Marine Lenders Services, LLC, as substitute
5 custodian, may, but is not required to, retain such services as are necessary to clean the
6 interior and/or exterior of the vessel, with such cleaning services to be performed under the
7 supervision of the substitute custodian.

8 IT IS FURTHER ORDERED that plaintiff shall arrange to pay charges for moorage
9 of the vessel, shall pay the fees and costs of the substitute custodian and shall reimburse
10 the substitute custodian for costs in securing the vessel, in conducting the inventory of the
11 equipment on board, in securing the vessel, in having the vessel cleaned, and for moving
12 the vessel.

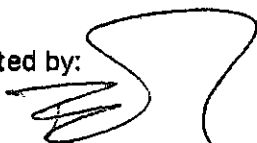
13 IT IS FURTHER ORDERED that all authorized expenses, hereafter approved by the
14 Court, for moorage in an amount not to exceed \$600.00 per month, for securing and
15 inventory of the vessel in an amount not to exceed \$1,100.00, for custody of the vessel and
16 its equipment in an amount not to exceed \$900.00 per month, for charges for moving the
17 vessel, for charges for securing the vessel, for charges for cleaning the vessel and for
18 insurance on the vessel, which are incurred by the substitute custodian or plaintiff for the
19 safekeeping of the defendant vessel and its equipment, shall be deemed administrative
20 expenses of the U.S. Marshal.

21 IT IS FURTHER ORDERED that plaintiff's attorney shall send a copy of this Order
22 to the owner of the defendant vessel at the last address known by plaintiff by certified mail,
23 return receipt requested.

24 DATED this 22nd day of February, 2011.

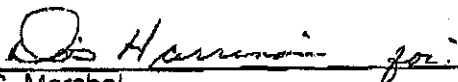
25
26 
27 U.S. DISTRICT JUDGE
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1 Presented by:



2
3 Brian C. Read, WSBA 34091
4 SIDERIUS, LONERGAN & MARTIN, LLP
Attorneys for Plaintiff

5 Approved by:

6
7  for:

8 U.S. Marshal
Western District of Washington

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SUBSTITUTE CUSTODIAN AND ORDER AUTHORIZING
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